

**Agreement to Establish a Consortium to Jointly Administer an Instructional Program
at Waverly-Shell Rock Lied Center located within the boundaries of the
Waverly-Shell Rock Community School District**

This Agreement between the member school districts whose signatures appear at the end of this document (hereafter "members"), including the Waverly-Shell Rock Community School District (hereafter "host"), is to establish a jointly administered program for the enrollment of students from the host and members' school districts in the Bremwood/Lied program pursuant to Iowa Code sections 28E.3 and 280.15(1) to provide quality education and activities for students enrolled from each member district, by the most efficient and economically responsible means; and

Whereas, each member wishes to enroll one or more of its students in classes or programs that are offered and available at the Bremwood/Lied program and that are not otherwise available at each member's site, and

Whereas, the host is willing to jointly administer the programs and activities at Bremwood/Lied School with the members with the costs determined as stated in this Agreement, and

Whereas, Iowa Code section 28E.3 provides, in part, that the boards of directors of two or more school districts may by agreement jointly administer any power, privilege or authority each member school district is capable of exercising individually, and

Whereas, Iowa Code section 280.15, subsection 1, provides, in part, that the boards of directors of two or more school districts may by agreement jointly share services of school personnel, acquire and share classrooms, facilities, and equipment,

Therefore, the member school districts agree to establish a jointly administered instructional program in the form of a Consortium as authorized by Iowa Code under the following terms and conditions:

1. PURPOSE

The Waverly-Shell Rock Community School District, pursuant to Iowa Code section 274.1, has the exclusive authority and responsibility to operate the instructional programs on the Bremwood/Lied Campus. Each member school district, pursuant to Iowa Code, has responsibility for the educational outcomes of its resident students. Members sending students to the Bremwood/Lied program will become members of the Bremwood/Lied School Consortium. This Agreement describes the arrangement for the provision of instructional services for the Bremwood/Lied School Consortium programs. This Agreement further describes certain terms and conditions to participate in the Bremwood/Lied School program within the Consortium arrangement for the students of each member district, including the host district, and other students not residents of any member district. This Agreement provides a means by which the members may jointly and cooperatively provide greater educational opportunities for students through the offering of educational programs and the collective operation of facilities for student use by exercising powers, privileges and authority and proceeding to participate in and help administer the program, pursuant to the joint powers authorized by Iowa Code.

2. PROGRAM DESCRIPTION

The Waverly-Shell Rock Lied Center program serves students K-12 with significant behavior needs. The Waverly-Shell Rock Lied Center program has students enrolled who have been residentially placed at the Lutheran Social Services of Iowa group home facility along with students who have been placed for day programming by the IEP team serving the student's resident/attending school district. The program is structured to develop skills based on student need so the student can successfully reintegrate back to a regular school environment.

3. NAME/ORGANIZATION

To accomplish the purposes stated above and to carry out joint and cooperative activity associated with the program, there is hereby created the Waverly-Shell Rock Lied Center Consortium ("hereafter Consortium"). This Consortium shall consist of the original member districts and host district, and shall include additional parties from time to time, but said Consortium shall not be considered a separate legal entity for purpose of Iowa Code Chapter 28E.

"Host district" means the district of location.

"Member district" means each public school district whose board has agreed to participate in the Consortium program, including the host district.

"Administrators" mean the superintendents, or the superintendent's designee, of each public school district whose board has agreed to participate in the Consortium program, including the host district.

"Fiscal agent" means the district that is established within the terms of this Agreement to provide the administrative business services, including student, staff, and financial accounting/management on behalf of the Consortium.

4. FISCAL AGENT

The host district will serve as the fiscal agent for purposes of all administrative business services associated with participation in the Consortium pursuant to the terms of this Agreement. The fiscal agent shall receive funds, handle student, staff, and financial accounting, make timely payments, and provide timely itemized billings to member districts as well as to cover incidental administrative costs such as clerical and business services, postage, and telephone. The host district will ensure that students are entered into an appropriate Student Record Information System (SRI) in classes offered through the Waverly-Shell Rock Lied Center program.

5. ADMINISTRATION

The Consortium shall be governed and administered by the Administrators of each participating member school district collectively. However, contracts must be approved and signed by the board president and board secretary of the governing boards of member districts rather than the administrators.

The administrators of the districts which are members of the Consortium shall have all powers, privileges, and authority necessary and incidental to manage the affairs of the Consortium, to exercise any power common to

the members, and to work with each other to manage this program. Each administrator shall have one vote, regardless of the number of students from that administrator's school district that attend the Bremwood/Lied program. The administrators shall also carry out the intent and purpose of this Agreement not inconsistent with law or this Agreement.

These powers and responsibilities of the administrators shall include general administrative duties which may arise from time to time, including, but not limited to:

- A. Setting policy and directing administrative regulations for the Consortium.
- B. Evaluating and preparing required reports on the effectiveness of the Consortium and the Bremwood/Lied program.
- C. Providing curriculum ideas for program offerings.
- D. Assessing the education needs and interests of the students within their respective district.
- E. Providing long-range planning for the Consortium and the Bremwood/Lied program.
- F. Setting and evaluating program participation numbers and qualification guidelines.
- G. Discussing collective purchases for supplies, equipment, rental/leases, etc., on behalf of the Consortium.
- H. Meeting periodically, as needed, to discuss issues associated with the Bremwood/Lied program and the Consortium.
- I. Other reasonable and necessary administrative duties.

Votes and approvals by the administrators may be accomplished by a consensus, a vote at a meeting, or by written affirmation by letter or electronic mail.

However, if the fiscal agent is entering into a contract or agreement on behalf of the Consortium, the governing boards of the member districts shall first approve the contract or agreement. The participating member districts may at any time restrict the powers of the fiscal agent of the Consortium.

6. JOINT MEETINGS

The administrators shall meet at least twice each school year, or more often if necessary, to discuss items of mutual concern. A minimum of 50% plus one administrator of the consortium member schools shall constitute a quorum for the purpose of conducting business during a meeting.

7. BOARD APPROVAL

Consortium membership shall be approved by the board of education of each member district. Failure of a board of education to approve the Consortium Agreement shall remove that school district from Consortium membership.

8. JURISDICTION

The students attending the Consortium program shall be allowed to participate in the student activities in their districts of residence and will be subject to the eligibility rules of their resident districts. Students in the Consortium continue to be enrolled in their resident districts and are subject to the testing requirements, graduation requirements, and disciplinary procedures of their resident districts. The employer of the licensed teachers will administer required assessments and will forward the results of the individual assessments to each resident district. The resident districts remain responsible for the achievement of resident students

pursuant to the provisions of the law. Permanent school records shall be maintained at the student's resident district.

The resident districts, through the Consortium, must be actively involved in the management, direction, supervision, and evaluation of the program; evaluation of the students; staff development of teachers; and monitoring adherence to all pertinent state and federal laws, including, but not limited to: testing requirements, No Child Left Behind provisions, IDEA provisions, EDGAR provisions, OMB circular A-87 and A-133 provisions, FERPA provisions, teacher licensure, curriculum development, professional development and expectations, and core curriculum implementation.

Member district students shall be under the jurisdiction of, and be the responsibility of, the host district while in attendance at Waverly-Shell Rock Lied Center , except as set out in this Agreement. Member district students shall be subject to the same academic, disciplinary, and other additional requirements that apply to host district resident students. Member district students may also be subject to additional disciplinary action at their resident district. All disciplinary or other hearings, if any, will be conducted by the administration or board of education hosting the program with the exception of hearings regarding suspension of more than ten (10) days and expulsions, which will be held by the resident district. The board of the resident district will work with the board of the host district to determine an appropriate course of action to the extent of the Consortium program.

9. INDEPENDENCE RETAINED

It is expressly understood and agreed to by the member districts that nothing contained in this Agreement shall be construed to create a partnership, association, or other affiliation or like relationship between the member districts, it being specifically agreed that their relationship is and shall remain that of independent parties participating in a cooperative mutual relationship in the Consortium. In no event shall a school district be liable for the debts and obligation of another school district.

10. NON-DELEGATION

Unless specifically provided in this Consortium Agreement, the Agreement shall not be construed as a delegation of the authority by the boards of education of any member school districts, or the powers or responsibilities conferred upon them by Iowa Code.

11. SPECIAL EDUCATION

Each member district, as well as any other district sending students under a tuition arrangement to the Consortium, shall remain responsible for insuring the special education instructional and related services offered to its students at the Consortium program provide a free and appropriate public education (FAPE) pursuant to federal and state law.

Each resident district is to maintain a file on each resident student attending the Consortium program. For special education students, this file should contain the student's current IEP and progress reports.

The resident district, working with the district employing the teacher and the fiscal agent district, is responsible for IEP development and review.

12. LIMITED ENGLISH PROFICIENT

If any student enrolled and served in the Consortium requires a limited English proficient [LEP] program, the resident district shall be billed for the cost of those services provided above the regular instructional program provided. This will be billed as an individualized cost.

13. STAFFING

Staff are the employees of the fiscal agent member district, unless this Agreement assigns other member districts to provide specific staff positions for the Consortium, or the fiscal agent member district contracts the day to day operation of the program to another agency.

The fiscal agent may employ, or contract with another public agency, on behalf of the Consortium, an appropriately licensed person or assign a portion of an appropriately licensed person's time (with time records to show exclusively devoted to the Consortium), to perform the duties of a principal or special education director. Only the employing member district has the power to terminate the employment, or public agency contract, of the principal/director.

If the time records support a specific portion of the time of the principal or special education director was exclusively devoted to special education, the fiscal agent shall provide such records to each member district. Should individual member districts wish to make a request to the School Budget Review Committee (SBRC) to treat their individual portion of this cost as a special education cost, each individual member district's Board of Education must approve the request and supply copies of board minutes verifying this request. The fiscal agent, on behalf of all consortium member schools, will file those requests that have been previously approved by member district's Board of Education to the SBRC for administrative special education costs. Member districts must meet filing timelines as established by the host district and the SBRC (timelines may be different) in order for the request to be considered by the SBRC.

14. TRANSPORTATION

Transportation of member students to and from Bremwood/Lied School will be determined by the resident member district and will not be the responsibility of the host district. Other necessary transportation during the school day shall be provided by the host district and shall be charged to the resident member district for the student as an individualized cost.

The host member district agrees to allow vehicles from member districts to cross its boundaries for purposes of providing such transportation.

15. PROPERTY

It is not contemplated that the Consortium will acquire, hold or dispose of any real property as part of this undertaking. However, the fiscal agent in the Consortium may enter into leases or sublease arrangements for a building to house the program, with approval of the member districts. That lease or sublease arrangements may be payable from the Physical Plant and Equipment Levy Fund or other legally authorized funds.

Existing equipment, supplies, furniture, and textbooks of each member district may be used in the Consortium program. Such use will be determined by the administrators based upon the appropriate need for the item. An

inventory of exchanged items will be maintained. All other equipment purchased by the Consortium as a whole, should be offered back to the member districts in an unbiased method.

Upon termination of this Consortium Agreement, identifiable exchanged items shall be returned to the district of original ownership. All items purchased separately by each member district during the term of this Agreement shall remain the property of that member district.

Each member district shall be responsible for its own buildings, non-instructional equipment and supplies, school buses, custodial and maintenance, utilities, insurance, and similar costs outside of the Consortium.

16. NON-MEMBER DISTRICTS

Only Consortium member school district will be allowed to enroll students into the Bremwood/Lied program.

17. MEDICAID

Administration and staff serving the instruction programs at Bremwood/Lied School will complete Medicaid claim documentation on behalf of consortium member districts. The submission of claim documentation for Medicaid reimbursement will be the responsibility of each member district for their resident students. Tuition billing for student(s) actual costs for attending the Bremwood/Lied program will not reflect any potential Medicaid reimbursement. The host district will not receive Medicaid reimbursements for students from other consortium member districts.

18. FINANCIAL PROVISIONS

Members agree to pay Consortium costs to the fiscal agent for their students' enrollment in Bremwood/Lied School programs. The costs shall be computed by determining actual costs for providing educational services to each member's students with IEPs as defined in this Agreement. Billing will be done quarterly and after the conclusion of extended school year services.

A member district may be involuntarily terminated at the end of a school year by a majority vote of the administrators for failure to pay timely or otherwise not abiding by the terms of this Agreement.

If statutory changes or additions, i.e., state incentives for such sharing, mandate adjustments in the payments required pursuant to this Agreement, addenda shall be executed to bring the Agreement into compliance with statutory requirements.

The fiscal agent shall receive no more than one (1) percent of the regular program DCPD for each student (FTE) enrolled and served in the Consortium program. In lieu of the one (1) percent limitation, the fiscal agent may keep time records to support billing actual cost for these services. This is a regular education cost and cannot be charged to special education.

The fiscal agent member district shall establish an operating budget for the Consortium program. The budget shall include all anticipated revenues and expenditures for instruction, instructional supervision, and operation and maintenance. If the revenues or cash flow are insufficient to meet the costs of the Consortium, the administrators shall discuss adjustments to the revenues, expenditures or budget. The budget, and any amendments to the budget, shall be approved by a majority of the administrators. Because the costs to districts must be based on actual resident students enrolled and served in the Consortium program, and

students may move, drop out or join the program throughout the school year, the budget estimated to be paid by each member district may require adjustment throughout the year accordingly.

The fiscal agent member shall provide itemized billings for the costs set out in this Agreement within thirty (30) days of the end of each quarter. No billing shall be provided directly to resident districts from a third party contract (such as the AEA or private provider). Each member shall promptly pay its amount at its next board meeting, but no later than forty-five (45) days from receipt of the itemized bill. If any costs were estimated in the first three quarters, the final quarter's billing shall be adjusted to ensure that the costs are the actual costs for special education for the entire year and the correct share of costs pursuant to this Agreement. "Itemized" billing means a bill in sufficient detail that each member district can meet its legal fiscal responsibilities, including but not limited to, determining performance of the IEP requirements for each of its students, reporting expenditures from the correct funding source in accordance with the permissive uses guidance document issued in December 2013, filing Medicaid claims or special education claims or determining that such claims have been filed and billed costs reduced by that amount, etc.

Each resident district shall be billed for and pay the actual costs of the educational program for each of its resident students pursuant to the IEP. "Actual costs" is a term referring to the excess costs of providing instruction for children requiring special education, above the costs of instruction of pupils in a regular curriculum. "Actual costs" should not be confused with the common meaning of actual as 'all costs incurred' which might include non-instructional costs or costs of instruction that are substantially similar to the costs of instruction in regular curriculum. To the extent that the costs are directly related to the provision of special education services pursuant to the IEPs, these costs are special education costs in the member districts. In the case of a Consortium, the general purpose percentage [GPP] would not be billed as a part of the actual costs, because the non-IEP costs are being allocated to member districts otherwise; billing for GPP would result in duplicated billing.

Specialized costs for identified LEP students above the costs of providing instruction for students in a regular curriculum, may be billed to each resident district of such identified LEP students in the proportion that each member's student FTE enrolled in the Consortium program and using that specialized LEP instruction bears to the total of all members' student FTE enrolled and using that specialized LEP instruction. Costs must be exclusively for identified LEP students and must be related to LEP instruction above the regular curriculum. Such costs will be billed as an individualized cost and may be paid from the LEP weighted funding (280.4), from SBRC modified supplemental amount (257.31(5)"j"), or from general fund general purpose funding.

Consortium members agree to lease the Lied Center facility from Lutheran Social Services of Iowa. Because this facility is not a school building owned by a member district, the annual cost of the lease may be billed to each member district in the proportion that each member's student FTE enrolled in the Consortium program bears to the total of all members' student FTE enrolled during that school year. The lease would be paid from either PPEL or SAVE and is not a special education cost. No costs related to debt, facility use charges, or new construction/remodeling may be charged.

If the cost of maintenance is increased as a result of the Bremwood/Lied program (custodial, utilities, garbage disposal, snow removal, lawn care), the excess cost of maintenance over the normal cost of maintenance in the host district, may be billed to each member district in the proportion that each member's student FTE enrolled in the Consortium program bears to the total of all members' student FTE enrolled during that school year. This must be agreed to by the majority of the administrators. The cost is a general fund, general purpose cost.

If the cost of insurance other than employee insurances is increased as a result of the Bremwood program (liability), the excess cost of liability insurance over the normal cost of liability in the host district, may be billed to each member district in the proportion that each member's student FTE enrolled in the Consortium program bears to the total of all members' student FTE enrolled during that school year. This must be agreed to by the majority of the administrators. The cost is a management fund cost.

Food service would be provided by the host district or Lutheran Social Services of Iowa in the same way that food service is provided to other students attending public school within the district boundaries.

Professional development and teacher travel that is specific and unique to the students served in the Bremwood/Lied program, may be billed to each member district in the proportion that each member's student FTE enrolled in the Consortium program bears to the total of all members' student FTE enrolled during that school year. If the professional development/travel is special education professional development, it may be charged to special education funding by the member districts; if not special education professional development, it is a general fund, general purpose expenditure.

The cost of supplies and equipment that are not included in actual costs of special education, may be billed to each member district in the proportion that each member's student FTE enrolled in the Consortium program bears to the total of all members' student FTE enrolled during that school year. These costs would be general fund, PPEL, or SAVE, general purpose expenditures.

The cost of purchased instructional services from a private provider that are not itemized and included in actual costs of special education, may be billed to each member district in the proportion that each member's student FTE enrolled in the Consortium program bears to the total of all members' student FTE enrolled during that school year. These costs would be general fund, general purpose expenditures.

19. CONTRACTED SERVICES

Billings from any purchased service provider must be "itemized" in sufficient detail that each member district can meet its legal fiscal responsibilities, including but not limited to, the ability to:

- Determine performance of the IEP requirements for each of its students.
- Report expenditures from the correct funding source in accordance with the permissive uses guidance document issued in December 2013.
- Ensure that costs are itemized for the purpose of submitting Medicaid claims or special education claims or determining that such claims have been filed and billed costs reduced by that amount, etc.
- Ensure that the costs are limited to actual costs of special education as defined by Iowa Code.
- Ensure that each item is an item on the student's individual student's IEP so that re-billings are accurate.
- Ensure that items such as services of a nurse are identified and are linked only to students with services of a nurse included on the individual student's IEP.
- Ensure that each item is paid from the correct fund.
- Ensure that each item is paid from the correct funding stream (special education weighted funding, IDEA Part B or Part C, LEP, Title 1, general purpose funding, etc.).
- Ensure that any administrative costs are allowable and itemized for the purpose of requesting permission from the SBRC to pay those costs from special education weighted funding rather than general purpose funding.

- Ensure that costs that are not included within the definition of actual costs of special education instructional programs are separately identified so that they are not paid from any special education funding streams. For this purpose, at a minimum, this would require costs itemized to the function level, and sometimes object level, that districts are required to enter on the CAR-COA. There cannot be a single special education cost when that cost includes non-instructional items. Therefore, there would be separate purchased services (even if in the same Agreement) for such things as instruction, support services, administration, operations & maintenance if applicable, etc.
- Ensure that no costs were paid from grants or other funding resources the private provider received or was entitled to receive to address the potential for any cost to be paid by the district which was properly paid from a different source. The IDEA provides that education agencies are payors of last resort.
- Ensure that any profit built in by a private for-profit service provider is reasonable. The district has a stewardship responsibility to look at those costs to evaluate the cost effectiveness of purchasing services versus providing the services directly as well as to have procedures in place to meet the coming requirements of the Omni-circular related to procurement.
- Ensure that no costs are “per pupil rates.”
- Ensure that no costs are related to purchasing spaces or other phantom student models.
- Ensure time records are maintained when personnel are paid from multiple funding streams and costs are proportionate to time.
- If the contracted service provider is the AEA, ensure that no costs are related to AEA responsibilities and all costs are at cost without built-in profit.
- Ensure that if GPP is part of the billing, that the GPP has been used to reduce the costs which are not defined by Code as special education instructional costs.

20. AMENDMENTS

The provisions of this Agreement may be added to, amended or modified by a majority vote of the administrators of all member districts and approved by a majority of consortium member schools boards of education. Amendment votes must be cast at a duly called meeting by all consortium school administrators physically present.

All other Consortium business not pertaining to amending this Agreement shall be decided by a majority of the administrators of all member districts.

21. DURATION

Subject to the rights of amendment, modification, or termination, this Agreement shall be in full force and in effect from the date of execution until June 30, 2017, and shall automatically renew every July 1 for one-year periods unless participation is terminated by a member by providing written notice to all other members on or before February 1 or terminated by mutual agreement of all of the member districts.

This Agreement will be reviewed annually by the administrators, beginning in January 2015.

22. TERMINATION

On termination of the Agreement, all assets owned by member districts shall be returned to the member district, and all Consortium assets remaining after payment of all liabilities shall be distributed to each

member district, at fair value, on the basis of its total FTE of student enrollment on October 1 in the year of termination in proportion to the total student enrollment of all member districts on October 1. If assets are insufficient to pay all liabilities, members shall be assessed in such proportion.

Also, upon termination of this Consortium Agreement, any remaining equipment, supplies, textbooks, and furniture purchased jointly on a prorated basis shall be divided by the same proration, subject to depreciation. Such items will be physically divided. If not possible, one district shall compensate the other districts for their prorated share of the depreciated value.

23. CROSS INDEMNIFICATION

If any claim for damage, injury or other loss (hereinafter "loss") is made by or on behalf of a student, the district transporting or supervising the student at the time of the loss shall be responsible for any payment of claims, damages, or judgments arising out of the loss, and that transporting or supervising district shall indemnify, defend and hold harmless the non-transporting or non-supervising district if a claim is made against the non-transporting or non-supervising district for a loss which occurred while the student was under the supervision and control of the transporting or supervising district. Both member districts and the host district agree to carry liability insurance or otherwise contract for coverage of claims consistent with this Agreement.

Otherwise, to the extent permitted by law, each of the member districts shall protect, defend, hold harmless, and indemnify the other member districts from and against any and all claims, losses, costs, damages, and expenses including attorneys' fees and expenses, which the other districts may incur by reason of the indemnifying party's negligence, breach of this Agreement, or violation of law or right of a third party, or that of the indemnifying party's officers, employees, or agents.

24. APPLICATION OF LAWS, RULES AND REGULATIONS

This Agreement and all policies, rules, and regulations adopted by the administrators to govern the operation of the program shall comply with the laws of the state of Iowa, with rules and regulations of the Iowa Department of Education, and with federal laws and regulations. Any provisions of this Agreement in conflict therewith shall be null and void and the remainder of the Agreement shall be binding upon all members.

All member districts shall refrain from any action which would violate any law, rule, policy, or regulation of any governmental body or agency having jurisdiction over this Agreement.

All member districts agree to cooperate as needed to assure that all required services and responsibilities are provided by the members and that the educational programs and activities are operated in compliance with all applicable laws.

25. BINDING EFFECT

This Agreement shall be binding upon, and inure to the benefit of, the member districts hereto and their successors and assigns.

26. EXECUTION IN COUNTERPARTS

This Agreement may be simultaneously executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

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27. SEVERABILITY

If any clause, provision or section of this Agreement shall, for any reason, be held illegal or invalid by a court or state or federal agency, the illegality or invalidity of such clause, provision or section shall not affect any of the remaining clauses, provisions or sections hereof, and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision or section had not be contained herein. In case any agreement or obligation contained in this Agreement is held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the members, to the full extent permitted by law. Failure of a member to enter into this Agreement in accordance with Iowa law or inability of a member to be a party to this Agreement shall not affect the validity or enforceability of this Agreement as to all other members.

In commemoration of this Consortium Agreement, the presidents and secretaries of the respective boards of education sign this Agreement on the dates set below, the Agreement having been passed by a majority roll call vote of each board.

**For the Waverly-Shell Rock Community School District:
(Host and Fiscal Agent Member)**

Board President Kelly Hege

Dated 9-13-16

Board Secretary Michael Riley

Dated 9-13-16

For the Cedar Falls Community School District: (Participating Member)

Board President _____

Dated _____

Board Secretary _____

Dated _____

